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LEE & HAYES PLLC
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OFFICE OF PETITIONS

In re Application of	:
Madan Mohan R. Appiah, et al.	:
Application No. 09/454,221	: DECISION DISMISSING PETITION
Filed: December 9, 1999	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MS1-0435US	:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 14, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until after the close of business. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

Accordingly, the \$130 petition fee submitted is unnecessary and will be refunded in due course.

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carries or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions